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Appl. No. : 09/590,657 Docket number 59.0027
Applicant : Bombay et al.
Filed : 06/07/2000 Confirmation No. 9534
TC/A.U. : 2634
Examiner : Chang, Edith M.

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Signature Tricia E. van Hooser
Tricia van Hooser

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT AND RESPONSE

Dear Sir:

This paper is in response to the Office Action of January 9, 2004 for the above-identified application. This Office Action was made final. Applicants respectfully request that the Examiner reconsider this designation.

Applicants note that in the Office Action dated January 9, 2004 the Examiner made rejections based newly cited art, namely U.S. Pat. No. 6,647,067 issued to Helm et al. on November 11, 2003. This patent issued after the response to the first Office Action was submitted on October 23, 2003; it was not cited in the first Office Action and was not available for consideration in the response to that first Office Action which was submitted prior to the grant date of the patent. Under MPEP §706.07(a), a second Office Action should not be made final when rejections are made on the basis of newly cited art. Applicants request that the Examiner withdraw the finality of the Office Action dated January 9, 2004 and enter the amendments and consider the remarks made herein.